

Application No.: 10/596,752
Filing Date: December 8, 2008

REMARKS

Claims 5-10 were considered in the Office Action. In this paper, Claims 5, 7, and 9 have been amended. No claims have been canceled. New Claims 12-25 have been added. No new matter has been added by this amendment.

Restriction of the Claims

The Examiner states that the pending claims are directed to the following distinct inventions and requests election of one of the inventions:

- I. Claims 5-10, drawn to a joint socket.
- II. Claim 11, drawn to a method for implanting a joint socket.

Applicant hereby confirms the election of Group I (drawn to Claims 1-5) without traverse.

Claim Objections

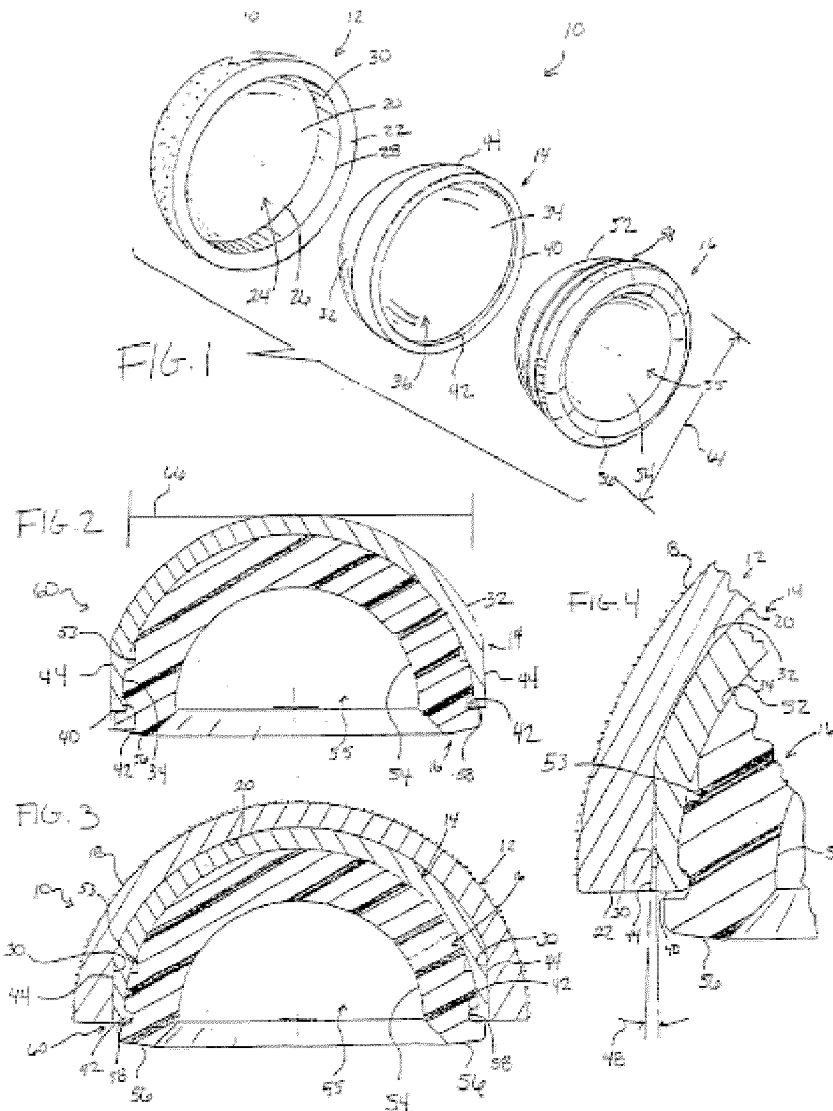
Claims 5 and 9 stand objected to for having various informalities. Applicant has amended the claims as suggested by the Examiner. Thus, Applicant respectfully requests that the objections be withdrawn as moot.

Rejection of the Claims Under 35 U.S.C. § 112

Claims 7-10 stand rejected under 35 U.S.C. § 112 as being indefinite for lack of antecedent basis. Applicant has amended Claim 7 to reference the “conical shape” in Claim 6, from which Claim 7 depends. Thus, Applicant respectfully requests that this rejection be withdrawn as moot.

Rejection of the Claims Under 35 U.S.C. § 102

Claims 5-10 stand rejected under 35 U.S.C. § 102 as being anticipated by Serbousek (U.S. Pat. App. Pub. No. 2002/0068980). Serbousek discloses a prosthetic cup assembly, as depicted below.



As depicted, Serbousek teaches a shell 12, liner 14, and bearing 16 that come together to form a prosthetic cup assembly. As best depicted in Figure 4, the liner 14 and shell 12 have tapers 30, 44 that are sized to engage and lock. Apart from the tapers, the inner surface 20 of the shell 12 and the outer surface 32 of the liner 14 are generally hemispherical.

Notably, the tapers 30, 44 cause the locking between the liner 14 and shell 12. Thus, the tapers 30, 44 limit the depth of insertion into the shell 12. Therefore, although no space is shown between the liner 14 and shell 12 in their spherical regions, it is highly unlikely that they are actually in contact in that region. If they were in contact in the spherical region, that contact would likely prevent the tapers 30, 44 from reaching their locking position, as the contact would prevent further insertion into the shell 12. Thus, achieving contact at both the tapers and the

spherical regions would require substantially perfect tolerances. Applicant has not found any portion in Serbousek describing contact along the spherical regions. Thus, Applicant submits that Serbousek's liner 14 and shell 12 do not contact in the spherical region.

Further, to ensure locking along the straight tapers, the locking contact of Serbousek should occur deep within the tapered portions. If the locking contact were precisely at the border between Serbousek's tapers and spherical portions, Serbousek again would require substantially perfect tolerances. Thus, Applicant submits that Serbousek's locking contact is deep within the tapered portions.

Applicant respectfully traverses the rejections in view of Serbousek. For example, regarding independent Claim 5, Serbousek fails to disclose the claimed difference in radii of curvature in the region of the line of contact. The elements of Serbousek contact within the straight tapers, which have the same radius of curvature. This contact is separated from the spherical regions to ensure taper-taper contact, and further prevents the spherical regions from reaching contact.

Nevertheless, to expedite allowance of the claims Applicant has amended independent Claim 5 to further clarify the claimed subject matter. The independent claims now generally recites, among other features, that the line of contact is "surrounded by and intersects the spherical outer surface," which Applicant submits is not disclosed, taught or suggested by Serbousek. At best, the spherical surfaces of Serbousek abut the locking contact between the straight tapers.

For at least these reasons, Applicant respectfully submits that Serbousek does not teach all of the features of amended Claim 5, so that amended Claim 5 is allowable over Serbousek. Claims 6-10 depend from amended Claim 5 and is therefore likewise allowable over Serbousek, not only because they depend from an allowable base claim, but also because each of these claims recites a unique combination of features, not taught or suggested by the cited art.

Rejection of the Claims As Double Patenting

Claim 5 stands rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of U.S. Pat. No. 4,894,064 (the '064 Patent). As discussed

during the interview, the Examiner agreed to withdraw the double patenting rejection based on Imhof. Applicant further notes that Claim 1 of the '064 Patent recites substantially only a "shell sleeve," and does not mention any relation between such sleeve and another item within which it is disposed or another item to be disposed therein. Thus, claim 1 of the '064 Patent fails to teach a substantial portion of independent Claim 5. For at least these reasons, Applicant respectfully submits that Claim 5 is allowable over claim 1 of the '064 Patent.

New Claims

New claims 12-25 have been added, including new independent Claim 19. Claims 12-18 depend from independent Claim 5. Accordingly, Applicant submits that new Claims 12-18 are likewise allowable over Serbousek, not only because they depend from an allowable base claim, but also because each of these claims recites a unique combination of features, not taught or suggested by the cited art.

Applicant submits that new independent claim 19 is likewise allowable over Serbousek. Claim 19 recites, among other features, that "the inner surface of the socket shell tapers toward a pole of the shell in the axial region on either side of said line of contact in such a manner that a radius of curvature in the region is greater than the spherical radius of the outer surface of said socket insert," which Applicant submits is not disclosed, taught or suggested by Serbousek. Instead, Serbousek at most teaches spherical surfaces that abut the locking contact between the straight tapers, not a socket shell inner surface that tapers on either side of the line of contact between the spherical outer surface of the socket insert and the inner surface of the socket shell. Claims 20-25 depend from Claim 19. Therefore, Applicant submits that Claims 20-25 are likewise allowable over Serbousek, not only because they depend from an allowable base claim, but also because each of these claims recites a unique combination of features, not taught or suggested by the cited art.

Applicant respectfully submits that these claims are supported by the originally filed specification and that no new matter has been added.

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No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, Applicant is not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. Applicant reserves the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that Applicant has made any disclaimers or disavowals of any subject matter supported by the present application.

Co-Pending Applications of Assignee

Applicant wishes to draw the Examiner's attention to the following co-pending applications of the present application's assignee.

Docket No.	Serial No.	Title	Filed
MEISS71.028APC	12/296,796	JOINT SOCKET AND HIP ENDOPROSTHESIS HAVING THE SAME	5/18/2009

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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